IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O. O. C. J.

SUIT NO.2810 OF 1994

Mahanagar Telephone Nigam Ltd. & anr. Plaintiffs
vs.
M/s.Pacific Telecommunications & ors. Defendants

Ms.Prashant Sutar i/b.M/s.S.I.Shah & Co. for the plaintiffs.

CORAM : ANOOP V. MOHTA,J.

DATED : 5th June, 2007

ORAL JUDGMENT:

The present Suit is for recovery of various telephone bills by the defendant. The suit is dated 30.3.1994 remained uncontested till this date. Defendants 1 to 3 though served failed to respond to the averments made in the plaint as well as the documents referred herein specifically. The respective telephone bills amounting to Rs.70,418/- as per the particulars of the claim have been annexed and marked as Exhibit "A".

2. By order dated 23rd June, 1999 the suit has been transferred to the list of undefended suit. The Court has directed the plaintiffs to file affidavit of documents and evidence. The plaintiffs have filed affidavit of evidence and list of documents along with the original documents dated 9.4.2007. The affidavit is filed by Accounts Officer of plaintiffs based on the

material and record available in respect of the transaction between the parties. The averments made in the affidavit supports the case of the plaintiffs as averred in the plaint. The documents as referred in the list of documents dated 9.4.2007 are marked as Exhibits P-1 Collectively. Those documents are two copies of the various telephone bills of respective telephone STD/PCO numbers as allotted to the defendants. The defendants though received demand notice dated 8.10.1993, 20.10.1993, 27.1.1994 and 21.2.1994 never paid the outstanding arrears of the telephone bills. Therefore, in the present suit, the plaintiffs have made the claim along with interest at the rate of 9% p.a. The contents of the documents though are certified or attested copies of the original bill, in the facts and circumstances of the case and as there is no denial or dispute to the contents of the same, I have no hesitation to consider the said documents in support of the plaintiffs case.

3. The following para 3 from the affidavit of evidence of the Plaintiff's Officer is reproduced:

> "3. I say that on request made by the defendant No.1, Defendant no.2 was provided STD PCO with its Telephone Nos. 5785787 and 5785794 installed in the name of the Defendant no.2 at the address mentioned in the cause title of the plaint. I further say that on request made by the defendant no.1 defendant no.3 was also provided STD PCO with its telephone Nos.5785775 at the address mentioned in the cause title of the plaint. I say that

> the defendants have not paid various telephone bills dated 19.10.1992, 5.11.1992, 20.11.1992, 5.12.1992, 20.12.1992 for a total sum of Rs.53603 in respect of telephone No.5785794 and bills dated 15.10.1992, 15.12.1992, 15.2.1993, 15.4.1993, 27.1.1994 for a total amount of Rs.8,958/- in respect of the telephone No.5785787. I further submit that the telephone bills dated 15.8.1992, 15.10.1992, 15.12.1992, 15.2.1993, 17.10.1993 for a sum of Rs.7,857/- in respect of the Telephone No.5785775 are not paid by the defendant no.1 and 3 submit that the said telephones No.5785794, 5785757 and 5785775 are disconnected on 3.12.1992, 4.3.1993 and 3.12.1992 respectively by the plaintiffs for the non payment of the telephone bills."

4. Considering the respective dates of the telephone bills ranging from 19.10.1992 to 27.01.1994 and as the Suit is dated 30.3.1994, the claim is also within limitation. So far as the claim of interest at the rate of 9% p..a from the date of the filing of the suit till the payment realisation is also just and proper.

5. Taking all this into account and in view of the undisputed position on record and as supported by the affidavit as well as the documents as referred above, the present suit is decreed in terms of prayer (a) which reads thus:

> ’(a) that the Defendant Nos. 1 to 3 be ordered and decreed to pay to the Plaintiff a sum of Rs.70,418/- as per the details shown in the Particulars of Claim annexed hereto and marked as Exhibit "A" hereto with the interest at the rate of 9% per annum from the date of the filing of the Suit till the payment and or

realisation."

6. Decree be drawn accordingly.

7) No costs.

[ANOOP V. MOHTA,J.]